

**TOWN OF MILLVILLE
BOARD OF ADJUSTMENT HEARING MINUTES
March 22, 2012**

1. **CALL TO ORDER & PLEDGE:** Chairman Reeve called the meeting to order at 7:00pm.
2. **IN ATTENDANCE:** Commissioners' Mark Reeve, Andy Lyons, Tim Droney. Town Solicitor Seth Thompson, Town Code & Building Administrator Eric Evans, Town Clerk Donna Schwartz.

Mr. Tim Willard, of Fuqua, Yori and Willard, representing Shore Pizza LLC/Fox's Pizza Den, Owner of Shore Pizza LLC Alex Buiniuski, Store Manager Dennis Klimies, Steve McGlannon witness.

Maria Counts, Coastal Point.

3. **APPROVAL of MINUTES:**

Mr. Lyons motioned to approve the minutes of January 12, 2012. Mr. Droney seconded his motion. All voted in favor. Motion carried 3/0.

4. **NEW BUSINESS:**

Mr. Reeve read the following: BOA 04-12 submitted by Shore Pizza LLC t/a Fox's Pizza Den, Tax Map Parcel #134-12.00-411.00, 38025 Town Center Dr. Units 2 & 3 (formerly 200 B & C Atlantic Ave), for a Special Exception pursuant to Millville Code, Article VI, Section 155-14E (5) as a tavern/bar/night club for the purpose of serving food and alcoholic beverages consumed on the premises.

Discussion:

Mr. Tim Willard explained to the Board of Adjustment Shore Pizza LLC would like to expand into the 19' x 58' building next door and add an eat-in restaurant to their take-out business. They would like to have a bar for single people to sit at to eat, or a place where people can sit to wait for a table. He said Shore Pizza LLC had also applied to the Alcohol Bureau of Control for a license to serve alcohol. **Mr. Willard** told the Board of Adjustment members the application for the ABC requires the applicant to submit documents like a menu, drawings, tax info, sales info, and bank account info.

Mr. Willard said he felt the pizza restaurant is in harmony with the Millville code and is centrally located away from residential areas so it will not adversely affect the area. He said parking would not be an issue and estimated there are at least 560 spaces surrounding the restaurant.

Mr. Alex Buiniuski swore this testimony was true and correct.

Mr. Reeve commented while the restaurant and serving alcohol to seated customers is provided for in the Town code, having a bar with stools is not. A separate bar is the issue of

the special exception that is the basis for the request.

Mr. Thompson clarified the use they intend for the bar is not a service bar and therefore not covered by the Town code and the question to be answered is whether it would adversely affect the area.

Additional testimony:

Steve McGlannon, friend and co-worker, stated these are good people and do a great job and the restaurant would benefit the Town.

Mr. Reeve stated the Board had received one letter in opposition from Ms. Ann Shankar of 14 Daylily Lane. She wrote she is opposed to the entertainment venue due to increased traffic and noise.

Mr. Droney asked Mr. Willard to clarify exactly how many seats the restaurant would with the bar stools. Mr. Droney said he counted 70 total seats. Mr. Willard confirmed this fact. Mr. Reeve asked Eric Evans if the floor plan needed to go Planning and Zoning for approval, Mr. Evans responded, "No, it is only a tenant fit-out and I approved those."

Mr. Willard also noted any changes at all would have to go back to ABC. He mentioned the ABC is very controlling, they demand a 60 /40 ration of food served to alcohol served. The ABC can yank a license for any infraction what so ever.

Mr. Droney stated he did not like the hours, and would like to see the hours reduced during the week to 11:00pm instead of 1:00am Sunday through Thursday. **Mr. Klimies** confirmed they would have a bartender, hostess, and waitresses.

Mr. Reeve stated as the code is written the Board's issue is the bar, a restaurant serving alcohol to seated patrons is allowed within the code. He stated one of his worries with the bar was safety and the fact that Millville had no police department concerned him. Mr. Reeve also said he was uneasy about setting precedence.

Mr. Thompson reminded the Board they are empowered to set conditions such as hours and how many seats. He also stressed the ABC strictly regulates restaurants with liquor licenses to make sure they are in compliance.

Mr. Lyons motioned to approve with the application with the conditions of hours of operation and strict adherence to the floor plan as presented. Hours of operation 11:00am to 11pm Monday through Thursday; 11:00am to 1:00am Friday and Saturday; 16'5 bar with 10 stools as presented in drawing. **Mr. Droney** seconded his motion.

Mr. Lyons voted yes to allow the variance based on the proposed finding of facts.

Mr. Droney voted yes, for the same reasons as Mr. Lyons.

Mr. Reeve voted no, he said he does not feel the business would be hampered by not having a bar.

Motion Carried 2/1.

5. ADJOURNMENT:

Mr. Lyons motioned to adjourn the meeting. Mr. Reeve seconded his motion. Meeting adjourned 7:55pm.